



# AFFORDABLE HOMEOWNERSHIP IN SANTA MONICA

## Abstract

Affordable homeownership is rarely available in Santa Monica. It is an essential form of housing that uplifts those on lower incomes, enhances stability and multigenerational wealth and is a weapon against discrimination. This report recommends ways in which access to affordable homeownership can be increased.

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## Summary:

This document clarifies the necessity of affordable homeownership as being one essential part of a successful housing policy. Furthermore, this document recommends actions to advance affordable homeownership throughout Santa Monica.

The Santa Monica Housing Commission recommends that the measures here proposed are implemented by the City of Santa Monica at the earliest opportunity.

- Establish a “TORCA 2.0” program whereby, when a rent control building comes up for sale, the city will offer to buy that building and will then allow renters to buy their apartments if they choose. Deed restrictions will be imposed to preserve affordability where it currently exists. (Section 2.1).
- New, market rate apartments are exempt from all rent control and transfer future wealth and capital appreciation from renters to landlords. The city must remove planning and fee biases against condo construction relative to market rate apartment construction. This will encourage lower-cost condo ownership in higher-density buildings. (Section 3.2).
- Place a ballot measure to impose a 30% gross rental tax on multi-family housing that receives its first occupancy permit after Jan 1<sup>st</sup>, 2025. This will not apply to any prior-existing rental housing. And it will never apply to any rent controlled or affordable housing, single-family housing or ADU’s, whether built before or after that date. This will discourage the construction of market rate apartments in favor of lower priced condos than are currently available. (Section 3.3).
- Wherever possible the city should encourage non-profit housing providers of 100% affordable rental buildings to transition their buildings to ownership models. (Section 2.3).
- Establish a “Purchase Assistance Office” that will encourage home ownership, help navigate the various purchase assistance programs, monitor ownership programs and seek new ways to help residents buy their homes. (Section 4.3)
- Establish generous city programs using housing trust funds to provide forgivable down-payment assistance to lower income city residents who wish to purchase affordable housing. (Section 4.1).
- Initiate a program that requires non-profit developers who receive new city financing to offer a “rent-to-own” or other ownership model. And that the city should monitor projects to ensure ownership actually occurs. (Section 2.4).
- The city must expand the Preserving Our Diversity (POD) program to include younger families. Also, POD money should be permitted to be used for mortgage payments, like Section 8 housing vouchers currently are. (Section 4.2).
- Allow market rate apartment buildings that are exempt from rent control to convert to condos, with controls to protect existing tenants. (Section 3.4).

## 1 Affordable homeownership as an essential element of housing policy:

Any successful housing policy will provide multiple types of housing to satisfy the various needs and aspirations of residents. These include:

- Market rate rentals.
- Market rate ownership.
- Affordable rentals.
- Affordable ownership.

At this time the only form of housing that is largely missing from Santa Monica is affordable homeownership. This is a glaring omission and must be urgently addressed for the following reasons:

1. It is a stated city goal.
2. Preservation of affordability.
3. Social, economic and racial justice.
4. Removes barriers to individual uplift.
5. It is HUD requirement.

We discuss these further in the following sections.

We also conclude that any efforts to deny affordable homeownership are guilty of policy failure on multiple levels, such as:

- 1) They are encouraging the loss of affordability.
- 2) They continue to transfer future wealth from the lower income to the wealthy.
- 3) They perpetuate racial, social and economic injustice.
- 4) They condemn affordable renters to reside in properties which are largely, or completely dedicated to low-income occupation. This silos society and violates fair housing policies by concentrating lower-income households in, potentially, resource poor neighborhoods
- 5) They reduce the housing choices available to residents and lower residents' expectations of housing quality. Alternatively, affordable homeownership leads to increased expectations in housing quality and improved upkeep and operational efficiency.

### 1.1 It is a stated city goal:

On March 31st, 2021, the SM City Council updated the housing element and included the following requirement:

*“Explore diverse opportunities for affordable homeownership and transition from renters to owners by residents.”*

One of the key priorities of Santa Monica is allowing the lower income to live in our city. The leaders in our community, having the ability to purchase their own homes, choose to do so. We should expect them to grant the lower income the same ownership privileges and rights.

To not allow the lower income to own their homes would be inexplicable given the personal housing choices of our own city leaders.

A key to empowering residents is to respect their aspirations rather than simply meet bureaucratic quotas that produce just the bare-minimum standards of housing.

## 1.2 Preservation of affordability:

The turnover of tenants in rent control units, and the sale of rent controlled apartment buildings leads to a continual loss of affordability, redevelopment and the loss of rent controlled apartments

Through deed restricted affordable homeownership this lost affordability can be prevented and existing affordability made permanent.<sup>1</sup>

## 1.3 Social, racial and economic justice:

### 1.3.1 Racial injustice

Homeownership enforces saving, builds wealth through appreciation and creates multigenerational stability and community.

The October 2021 issue of National Geographic magazine had a major article on Black homeownership<sup>2</sup>. It said:

*“A typical ... white family’s wealth is eight times that of a typical black family - a legacy of bias in housing.”*

The article makes clear the enormous benefits of minority homeownership.

By disenfranchising minorities from ownership, we condemn their descendants to generations of poverty.

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<sup>1</sup> See section 2.1: TORCA 2.0

<sup>2</sup> <https://www.nationalgeographic.com/magazine/article/why-black-homeownership-thrives-in-this-special-pocket-of-new-york-city-feature>

On December 26<sup>th</sup>, 2021, the LA Times had a major article on black homeowners displaced from the Belmar Triangle in Santa Monica.<sup>3</sup> It says that affordable rentals do not replace the benefits of wealth creation, stability and community that ownership brings.

From the article: -

*"Monroe believes the city should be making it easier for her family to actually buy a home in the community ...'But what else is there?' Monroe said. 'The theft is still there. The generational wealth is still gone'"*

The minority families displaced when the 10 freeway was built were very likely homeowners, and now Santa Monica is offering them affordable rentals.

This is laudable, but entirely ignores the fact that this was a taking of property *owned* by those displaced, and the city plans to substitute it with rental housing. Which just reinforces the initial property taking and continues the pattern of poverty and dependency.

The city must instead offer those displaced affordable-condos-to-own, which will be truly restorative, rather than this inadequate substitute.

In the 1950s, Hispanic property owners were displaced from Chavez Ravine. This caused the destruction of a community and loss of future wealth by minorities through seemingly well-meaning, but in reality, wealth-destroying actions.<sup>4</sup>

The future homeownership wealth of minorities has been seen as irrelevant and expendable, and rental housing was seen as compensation. Meanwhile the future homeownership wealth of the affluent is cherished and protected.

From yet another article in the LA Times (11/14/2021):<sup>5</sup>

*"If you look at Black and Latino neighborhoods, in terms of homeownership, the loss of equity...the damage is tremendous..."*

Cal Matters (3/24/2022) highlights a report from the California Association of Realtors:

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<sup>3</sup> <https://www.latimes.com/homeless-housing/story/2021-12-26/santa-monica-to-people-long-evicted-by-freeway-come-back-home>

<sup>4</sup> [https://en.wikipedia.org/wiki/Battle\\_of\\_Chavez\\_Ravine](https://en.wikipedia.org/wiki/Battle_of_Chavez_Ravine).

<sup>5</sup> <https://www.latimes.com/projects/us-freeway-highway-expansion-black-latino-communities/>

*“Homeownership has long been considered a path to the middle class. But just 17% of Black and Latino households could afford a median-priced home in California last year, down from the prior two years,”<sup>6</sup>*

Over and over, we see that minorities have their property taken and end up in affordable rental housing from which there is no escape - and are victimized by both the initial property taking, and then by well-meaning but misguided policies that discourage home ownership.

#### 1.3.2 Social and economic injustice:

Only the wealthy can afford to buy single family houses or new condos in Santa Monica.

Affordable renting is just renting, and leads nowhere - wealthy homeowners get richer while lower income renters keep struggling. To close that gap the lower-income need to own property. The city must make ownership a primary goal for all classes of residents, especially the lower income.

Centrally planned, wrongly sized apartments:

If people can choose which condo to buy, they will choose ones that meet their needs, rather than ones the city chose to build. Frequently the city planners build the wrong size of apartments - usually too small. But with a free market to choose from, developers would build what people want, and resident owners would end up with housing which they aspire to, not that which central planners have (often incorrectly) specified for them.

The aspirations of residents must be paramount. The vast majority of whom, if asked, would express an overwhelming desire to own their own homes and gain permanency and pride. But central planners and existing housing bureaucracies express no interest in residents' aspirations, and merely consider their most basic conditions for living. We must demand more from our housing policies.

Furthermore, the affordable rentals now being built offer little parking - making street parking unusable. This would be far less likely to happen if people could choose which home to purchase, as they may avoid buying homes without parking, and then developers would be much less likely to build them. The lack of parking for the lower income leads to loss of job choice and difficulties for the disabled and those with families. This is discrimination based on income and ability.

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<sup>6</sup> <https://calmatters.org/california-divide/2022/03/california-home-prices-black-latino-households/>

### 1.3.3 Removes incentives against individual financial improvement

Affordable rental housing policies discourage tenants from seeking increased income, thus locking in dependency.

But when owner-occupied, the cost of housing is fixed. This protects from increased rents in affordable housing that may be exempt from rent control. It also protects against increased rents caused by rent/income calculations in affordable housing.<sup>7</sup>

Affordable rental housing is continually means tested. Increased earnings may lead to an increase in affordable rental housing rents, or the loss of that housing.

This is a strong incentive against renters seeking increased income. Which may then cause enforced dependency, with an ensuing inability to break from self-imposed poverty.

When housing is owned, increased income will not cause mortgages and property taxes to rise, unlike rents in affordable rental housing.

Thus, affordable housing that is owned does not discourage tenants from improving their income, as such housing is not means tested following the initial purchase.

But, of course, deed-restricted affordable-housing-to-own will again be means-tested at any future time it is sold, thus maintaining affordability while not perpetuating dependency and poverty.

### 1.3.4 It is a proposed HUD requirement.

HUD's proposed new rule re "Affirmatively Furthering Fair Housing" says the following:<sup>8</sup>

*"Increasing access to homeownership opportunities based on race can begin to address the racial wealth gap, enabling families of color to accumulate wealth and develop financial security."*

By offering meaningful paths to affordable homeownership Santa Monica can begin to satisfy this requirement of the proposal.

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<sup>7</sup> Housing vouchers (Section 8) may also be impacted by increased earnings, but in certain cases this may be limited by HUD'S Earned Income Disallowance (EID) program:

<https://www.law.cornell.edu/cfr/text/24/960.255>

<https://lhand.org/wp-content/uploads/2021/09/EarnedIncomeDisallowance.pdf>

<sup>8</sup> [https://www.hud.gov/press/press\\_releases\\_media\\_advisories/HUD\\_No\\_23\\_013](https://www.hud.gov/press/press_releases_media_advisories/HUD_No_23_013)

<https://www.hud.gov/sites/dfiles/FHEO/documents/AFFH%20Proposed%20Rule.pdf>



The proposal then says:

*“Inequality in access to homeownership has created a ballooning wealth gap among racial and ethnic groups. Homeownership is generally the most traditional and stable way for a family to accumulate wealth; however, this advantage has primarily been made available only to White families, even today. As one researcher described the results of a 2019 study, the median White family had eight times the wealth of the median Black family and five times the wealth of the median Latino or Hispanic family.”*

## 2 Forms of affordable homeownership:

- 1) “TORCA 2.0” Converting existing rent control apartment buildings that come up for sale to deed-restricted, affordable condos to own. Existing renters can continue renting, or be helped to become owners.
- 2) Selling inclusionary units in market-rate condo buildings as Deed-restricted affordable condos.
- 3) Building new 100% affordable condo buildings.
- 4) Converting 100% affordable, non-profit owned rental buildings to ownership.
- 5) Prioritizing lower-cost market rate condos, instead of market rate rentals.
- 6) Rent to own models
- 7) Shared equity models
- 8) Long leasehold models

### 2.1 TORCA 2.0

There has been discussion of a “TORCA 2.0” in the city to replace and update the earlier, TORCA.

We are using the label “TORCA 2.0” to mean the proposal outlined herein to replace and update the earlier TORCA, by offering existing rent-controlled renters a path to ownership of the apartments they currently rent.

Rent control tenants are alarmed and their housing is endangered when apartment buildings are sold.

When a rent-controlled building is sold one of two things happens:

- a) Either the building is demolished and redeveloped.
- b) Or the building is bought by someone who is new to rent control. Long time landlords are used to operating under rent control, and their expenses are low enough that they can cope. New owners will have higher mortgages and taxes, and may not understand rent control, and may thus take a more aggressive approach to lease violations and will have increased motivation to force out long time renters.

It is vital that the city saves these buildings.

Without the constraints of vacancy-control, landlords are understandably reluctant to go through the effort of TORCA conversions themselves.

### 2.1.1 A summary of the original TORCA

TORCA (an acronym for Tenant Ownership Rights Charter Amendment) was passed in 1984 by the city of Santa Monica to allow tenants and landlords to negotiate to convert their multifamily apartment buildings into condos. TORCA ended in 1996; there are no new TORCA conversions today.

There are many TORCA converted apartments in Santa Monica now, some of which have been bought by the renters, and may have been subsequently resold. And there are some TORCA units still rented by the original tenants

Many of those who bought are extremely glad they did, and have found housing security and increased financial security.

Flaws in the original TORCA:

Not necessarily a flaw in TORCA, but a source of consternation to those who bought their apartments is an equity sharing program that the city created to help purchases. This can cause a significant, though expected equity cost to close out the sharing, or when selling the condo.

A further shortcoming, was that should a renter choose not to buy the unit, and then voluntarily vacate, then the landlord can sell that unit at market rate. This gave landlords increased motivation to persuade or pay the tenant to vacate. Furthermore, such renters were often harassed by third parties to buy (at reduced rates given the presence of a low-rent tenant), then move out and sell the unit at market rates for a windfall, sharing the profits with the third party that provided purchase assistance.

To undergo a TORCA conversion the tenants and landlords had to negotiate and a majority of tenants had to agree. This was not always easy, or possible.

### 2.1.2 TORCA 2.0 Implementation

Each year numerous rent-controlled apartment buildings are organically offered for sale. These should be bought by agencies or non-profits supported by the city, whose signature goal is enabling homeownership. The residents will then be allowed to buy their units if they wish.

To be clear, the city will not attempt to buy buildings using eminent domain or other enforcement.

With ever increasing tightening of rent control, many long-time owners of rent controlled buildings are actively selling out, or are considering it.

Renters who choose not to buy following a TORCA 2.0 sale and conversion to condos can continue renting, and when they eventually move out the non-profits will sell the individual

apartments on the open market with deed restrictions based on the rent of the last tenant, thus capturing any below market rents and consequently keeping the price of the unit affordable in perpetuity. Currently such below-market rents are lost when tenants turnover. This is great loss to affordability in the city.

Apartments that continue renting with the original renters will continue to be protected by rent control until they either move out or buy their apartment

It is vital that to support long term capital appreciation, and uplift of the lower income owners, that the purchase of the apartment will also involve the purchase of a share of the underlying land. Once all units are sold the city will retain no ownership rights, and the apartments will operate in a similar manner to traditional condos, with full ownership of the underlying land granted to the owners of the condos.

We recommend the city council implement this program at a large scale, to capture most, or all, rent-controlled apartments that are organically offered for sale.

The formula for calculating sales prices and deed restrictions will be as follows:

- 1) If a tenant is renting at the time the apartment converts, then that apartment will be offered to that tenant with deed restrictions based on the actual household income at that time. If the household income is greater than that of either a family or single person median income for the Los Angeles area as defined by the American Community Survey<sup>9</sup> then it will be offered to the current tenant as a market rate purchase. If the income is less, then it will be offered with deed restrictions and a reduced price so it will be affordable to the current tenants. In order for such an offer to be made the tenant(s) must state their income. To avoid gaming incomes to produce a low-income year, the average of the last three years of household income will be used for calculations.
- 2) If a unit is vacant, or becomes vacant then it will offered for sale at market rate IF the last registered rent is greater than the median rent for all rent controlled apartments with that number of bedrooms. Alternatively, if the registered rent was less than the median rent for rent controlled apartments with that number of bedrooms then it will be offered for sale as a moderately affordable for-sale price. If the rent was less than half the median rent for equivalent rent-controlled apartments then it will offered as a deed-restricted for-sale condo for households earning low incomes.
- 3) Once a sale has occurred and deed restrictions are in place, those restrictions will remain in perpetuity, even if the unit is subsequently resold.<sup>10</sup>

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<sup>9</sup> The US Census, and the American Community Survey. This data can be found at [data.census.gov](https://data.census.gov).

<sup>10</sup> The city may want to possibly consider of allowing the removal of these deed restrictions via an appeals mechanism, with the payment of suitable affordability fees, where there is individual hardship. Although the housing commission takes no position on this possibility at this time.

- 4) Renters present at the time the building converts, and who continuously rent after that, will be allowed to buy at any time in the future after the building converts. The purchase price will be adjusted at that time in line with the income of the tenant at that time.
- 5) This will likely lead to certain units being sold for substantially less than others in the same building. To avoid causing further discomfort to those who paid higher prices it is vital that even the affordable units pay their fair share of HOA fees. The HOA fees may be used as a factor in the affordability calculations for the sale prices.
- 6) Potentially add a 1% "Flip tax." The proceeds, out of escrow will be returned to the HOA reserves for the building, helping to lower HOA fees and discouraging flipping.

Being managed by an agency or non-profit prior to the first sale, and then sold with deed-restrictions will remove any motivation for private landlords to remove renters so the units can be sold at a premium.

Once a unit is sold and converts to a condo, it will remain a for sale condo in perpetuity. Individual HOAs may choose to allow subsequent renting, or not, of condos by owners, but where deed-restrictions are present, any rent charged must reflect that affordability in the rental amount. This will be part of the deed-restriction language.

Units can only be bought if the buyer owns no other real estate in California, thus only one unit can be owned by each household at a time.

The advantages of this form of ownership are undeniable:

- 1) The sale of TORCA 2.0 units generates funds to help finance more building purchases.
- 2) It keeps a mix of incomes living in proximity – affordable and market rate. This avoids segregation by income, and consequently supports a vital goal of fair housing policies.
- 3) It enables self-determination, pride and the ability to claim Santa Monica as a permanent home. Unlike renting which is temporary and subject to the whims of even non-profit landlords.
- 4) Rent controlled rents are still subject to annual increases. Mortgages are fixed, tax deductible and enforce savings habits.
- 5) It frees the city from continually feeding more money into struggling affordable buildings and non-profits.
- 6) It gives home owners motivation to upgrade their homes with new bathrooms and kitchens etc. Something that a renter would rarely do. This self-improvement and re-investment is one of the cornerstones of self-determination, pride and asset appreciation, which leads to financial safety in retirement.
- 7) If a percentage of units are sold as market rate condos, they will pay property taxes. This will help pay for the city services of any affordable renters who do not pay property taxes.
- 8) As families who own condos grow capital appreciation, and potentially earn more, their increased economic success will provide inspiration to neighbors who they literally share walls with, which further breaks down barriers to success in the community.

Some may argue that the city could buy such buildings and rent them out as affordable rental housing in perpetuity. This has the following fatal flaws, amongst others:

- 1) It discourages renters from seeking increased income, as periodic means testing may threaten rent increases.
- 2) It does not support the enforced savings of mortgage repayments.
- 3) It does not allow multigenerational wealth creation via capital appreciation.
- 4) It perpetuates economic and racial stratification.
- 5) It leaves tenants at the mercy of non-profits who, however well-meaning initially, after many years may eventually lose sight of their initial vision.
- 6) It concentrates much of the city under the control of a few, large non-profits, with the ensuing risks of political and regulatory capture by favored vendors.
- 7) Affordable rental housing currently borrows from the city to buy land – and the city often forgives such funds. Leaving the non-profits in perpetual ownership of land they paid little towards, and exempt from city control. There is no guarantee that once loans used to buy land have been gifted away by the city, that non-profits will continue to be well-behaved. 60+ years from now there is no guarantee that rental-non-profits will not become mismanaged, either through malice or incompetence, while the city will have no ability to regain control of the land and property.  
If residents owned their own land and homes those issues would be non-existent.

#### *2.1.2.1 How to pay for it:*

Santa Monica is pouring vast sums into affordable housing – perhaps the largest in the state per capita, if not the country.

Rent-controlled apartments that convert to condos are extremely affordable, as the sale prices of apartments buildings are far lower than the sale costs of equivalent condos – and far below their replacement cost.

Apartment buildings are often sold at a large discount to the value of those units as condos. For example: a four-unit building may sell for \$2Million, if the apartments were sold as condos they may be worth double that. However, the presence of protected tenants that pay below market rents will significantly reduce the market value of such units, and will allow the city to sell those units to existing tenants at much reduced prices.

If any, higher-rent, units are voluntarily vacated, and if they are sold on the open market at market rates, they would generate significant proceeds to further fund this program.

#### *2.2 New 100% affordable condo buildings.*

City staff have stated that CA demands for affordable housing construction may be met via affordable homes for sale.

Currently, large areas of city land are being bought by non-profits using city loans, which are then forgiven. This permanent transfer of control to third parties at little or no cost is leaving its residents bereft of avenues for affordable ownership.

The city must instead prioritize non-profits, agencies and other organizations whose primary mission is affordable homeownership.

When new affordable housing projects are submitted to the city, a key qualification should be that the housing will be for sale and not for rent.

There are currently multiple thousands of affordable units in the city, virtually all of which are rentals. From now onwards the city should only permit new projects that support ownership rather than rentals, until a significant percentage of affordable units in the city are owner occupied.

When a non-profit developer approaches the city for funds, the city must state that those funds are conditional on the developer providing a clear path to ownership for occupants, with penalties for failure, up to and including the loss of control of the property.

The sale proceeds from these units will be fed back into the organizations involved, who can then use those proceeds to construct more for-sale housing. This will reduce the need for city funding.

It should be allowed, even encouraged, that current residents in affordable rental buildings can apply to purchase these for-sale units. Furthermore, current city residents must be given priority in such purchases.

When using city owned land for 100% affordable ownership apartments, by imposing deed restrictions on the land, the value of the land will be substantially reduced to the point that those condos will be affordable.

It may be argued that the loss in value is a high price for the city to pay – but the city pays this price every day when it builds affordable housing. If the city can finance affordable housing to rent, then it definitely can do it for condos – since the sale of the condos will generate cash – which the renting of the apartments would not.

### 2.3 Converting existing 100% affordable condo buildings

Given the stated desire of the city to transfer renters to ownership, it is appropriate to ask non-profit housing providers to outline how they would approach allowing their existing tenants to

purchase their own homes – either the units they currently rent, or other units that the non-profits can provide to buy.

Thus, the Housing Commission asks the city council to require responses to this issue from non-profit housing providers who are currently managing rental properties in the city.

## 2.4 Rent to own

True ownership brings true access to capital appreciation and freedom from rent increases. Renting for short periods prior to ownership, particularly when part of the rents could be used as credits towards purchase can ease the ownership path.

There are down-payment assistance programs available, but they also require the use of standard mortgage products, which require clean credit histories. But most of all buying a home requires courage on the part of the buyer to make a commitment. Rent-to-own can provide a gradual path that helps overcome these issues.

There are many ways to structure this, but ensuring that this is not a one-time factor for each unit requires that subsequent owners are also able to access rent-to-own. To satisfy this we would expect a widely implemented rent-to-own plan to have the following features:

- 1) Selected affordable housing buildings would be operated initially by non-profits when first built, but then gradually as ownership spreads the operational tasks would transfer to HOAs.
- 2) When units are sold they will be purchased by a non-profit tasked with running the rental portion of rent-to-own.
- 3) The sale price will be a multiple of the deed-restricted income restrictions, adjusted to reflect current mortgage interest rates. (See C.2. HFDC sale price controls).
- 4) The non-profit will then offer the units with a rent-to-own feature, where a portion of the rents will be used towards down-payment credits. Should a tenant move out then those credits will be lost.
- 5) When a tenant buys the unit, the proceeds will be fed back into the program.

## 2.5 Shared equity

There are existing down-payment assistance programs that involve shared equity that is recaptured when the unit is resold. The impact of these on wealth building creation is limited in scope and can assist in purchases in a meaningful way.

There are also programs where equity sharing is part of the fabric of the project.



The National Housing Conference has said the following:<sup>11</sup>

*“...criticized for implementing restrictions on wealth building...”*

One of the key potential drawbacks of shared equity is the degree it impacts on wealth building.

Without the ability to meaningfully create wealth, there is no justification for asking renters to have to deal with HOAs, repairs and maintenance. And if disadvantaged groups cannot grow wealth at the same pace as other groups, they will not be able to achieve the break-out from poverty that will level the past and current injustices.

The Housing Commission views equity sharing as a gray area, depending on the degree it ultimately impacts the wealth generation of owners.

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<sup>11</sup> <https://nhc.org/policy-guide/shared-equity-homeownership-the-basics/>

### 3. Encouraging lower cost, market rate condo construction:

The Housing Commission supports providing housing at a lower cost, not just dedicated affordable housing, but also market rate housing for sale.

Due to state-enforced zoning changes there is little the city can do to slow or stop the onrush of large market-rate apartment buildings on the City's main boulevards. Such buildings bring no benefits, and great financial harm, to renters, relative to being built as condos - as new, market-rate apartments in Santa Monica are exempt from all rent control by state law.

A small number of large, market rate developers have the legal and financial ability to game the zoning of the city to become ever larger, spreading their control over our city ever wider. And squeezing out opportunities for ownership, leaving our city bereft of low-cost, market-rate ownership opportunities.

As a consequence, many renters will never own homes in this city while the market rate building owners will get ever richer.

But the urge to own is overwhelming, and rightly so. And so many will leave the city to buy elsewhere.

Ownership is the ultimate form of rent control - mortgages are fixed, and eviction is impossible. And ownership grows wealth.

There are three types of for-sale-housing in this city:

- 1) Single family homes (unattainable but for the wealthy).
- 2) Purpose built, high-end condos (still very expensive).
- 3) Older TORCA apartment conversions. (More affordable, but no more conversions are allowed).

New, market rate housing for sale in Santa Monica is usually of the "town-house" format. This is relatively land-hungry and expensive – as that is where the high barriers created by the city against condos can be overcome financially.

New apartments tend to be smaller, less luxurious and much cheaper to build. They could make far cheaper condos to buy than have been available up to this point. In most other, urbanized parts of the world it is usual to buy denser, apartment-style condos in larger buildings.

Such, single level condos in multi-level buildings are far cheaper to build and buy than the typical townhouse condo as they tend to be smaller, and the amount of land required per unit is far lower. We can compare it to the cost of renting a new townhouse with the far lower cost of renting a new apartment.

(To be clear, town-house style condos will continue being built in lower density areas. But along major boulevards there are very large apartment buildings being planned. It is those buildings that we are referring to in this section.)

Thus, by allowing new-build apartments to be built as condos instead we can give many more of our residents access to the incredible benefits that ownership brings, in terms of enforced-savings, pride, connection to the community, housing security and the fixing of housing costs.

New market rate apartments have none of these advantages, and leave our renters as dependent, unstable and far less likely to grow wealth – i.e. relatively poor. Our city’s choices are so opposed to the welfare of our residents (and in favor of apartment buildings owners) as to be regressive, rather than progressive as some may claim.

Such single-level condos will clearly be affordable for many to buy as condos, since they are affordable to rent as apartments - else they wouldn’t be built. The developers don’t want empty buildings.

New, market rate apartments are not in short supply or needing preservation. They do not help the low income, relative to the construction of condos. There is no societal benefit why these are sold as rentals, not as condos.

But there is severe societal harm to the renters who are not allowed to buy them as condos. Month by month they are bleeding their wealth to the building owners. Each year that an apartment is rented means a year less capital appreciation for that tenant. And a year more capital appreciation for the landlord.

There are claims that we need to keep our rental base for some reason. But there are 70% rentals here, and that percentage rises every day. There is no conceivable threat to the availability of rentals in this city.

And the lower income really can afford to buy the deed-restricted, affordable units that are required in new apartment buildings, should they be built as condos instead.

### 3.1 Inclusionary, deed-restricted affordable condos

It is important to allow the inclusionary units in new market rate condo buildings to be purchased under income deed restrictions.

There have been concerns about “trust-funders” and “pieds-a-terre”: This is quite fixable. The constraints applied to H.F.D.C Coops in Appendix C.2 give examples of these fixes.

### 3.2 Removing planning bias against condos

Fees and bias in planning are skewed against condos. Fees should be equalized between apartments and condos, and the bias in planning should be reversed so the condos are encouraged relative to apartments.

Examples of bias against condos include:

- 1) Higher fees.<sup>12</sup>
- 2) Bias in planning<sup>13</sup>

### 3.3 Rental tax on future market rate housing.

The city must prioritize lower-price, market rate homeownership via entry-level, market rate condos, instead of new market rate rental housing.

To support this goal, the Housing Commission asks that the council establishes a ballot measure that would impose a 30% gross rental tax on all new multifamily residential construction that receives its first occupancy permit after January 1<sup>st</sup>, 2025.

This measure would discourage new rental construction in favor of condo construction, since such units would be owner occupied and not rented out, and would thus not be affected by the tax.

If passed by city voters this would become effective after the next general election.

This will not apply to any prior-existing rental housing. And it will never apply to any rent controlled or affordable housing, single-family housing or ADU's, whether built before or after that date.

This will discourage the construction of apartments in favor of condos. By applying to condos built after that date it will ensure they become owner occupied, and that they will not become rented-out-condos.

For apartment buildings that are in construction before that deadline the city will work with developers to ease the transition of those units to condos for sale, waiving fees &etc. should the developer accede.

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<sup>12</sup> \$39.12 / square foot for apartments (effective 12/01/22; updated annually)\$45.70 / square foot for condominiums (effective 12/01/22; updated annually)

<sup>13</sup> On-site affordable housing units must be rental units in rental projects. In ownership projects, these affordable housing units may be either rental units or ownership units.

The revenue raised from such a tax should be used to support general city revenues for schools, police etc. This will help compensate for the loss of tax revenues from tax-free, affordable housing in the city.

This measure would likely be opposed by developers and associated political groups in the city and its passage is not guaranteed. However, even the presence of such a measure on the ballot would have a chilling effect on apartment construction in favor of condo construction, and would likely readjust developers' opinions of the long-term risks and benefits of rental versus condo construction.

### 3.4 Allow market rate apartment buildings to convert to condos.

The city should allow market rate apartment buildings, that are exempt from rent control, to convert to condos at the wish of the landlord.

Some may say this will generate a windfall for the developer. Not so, or at least no more than if they had been built as condos to begin with. But converting to condos will cause a long-term transfer of future wealth from the landlord to the condo-buyers, among many other benefits. And in particular to any deed-restricted inclusionary condos that will also be required to be sold during conversion.

The following restrictions will be imposed:

- 1) Before conversion, no apartment rents must increase beyond the rate of inflation for the previous 3 years, or since construction if that was more recent.
- 2) Existing renters must be given a one-year notice of conversion.
- 3) Relocation fees must be paid to renters.
- 4) Any deed-restricted inclusionary units must also convert. Existing renters in these units will be allowed to continue renting past the date of conversion. Such units will only be sold when the tenants have either voluntarily vacated, or purchased the units they occupy.
- 5) Any converted condos must not be subsequently rented out by the landlord/developer, but must be sold to real humans for owner-occupation.

## 4 Purchase assistance resources.

There are many and varied sources of down-payment assistance for low and moderate income purchasing of affordable for-sale housing.<sup>14</sup>

However, navigating these sources of funding can be complicated and obscure, and the city should provide further guidance and assistance to prospective affordable home purchasers.

But it is also clear that with the city has vast amounts of funding available for affordable housing.

### 4.1 New Forgivable Down-payment assistance loan fund

City housing funds must be used to create a new class of generous, interest free or forgivable down-payment assistance loans to low and moderate-income home purchasers. (Just as non-profit developers already have forgiveness built into loans from the city. We should extend the same forgiveness to individual loans, when used for affordable homeownership as we give to non-profits.)

These loans should forgive over time, and require owner occupancy to avoid benefiting landlords. As indeed, should all forms of housing assistance.

### 4.2 Expand POD and allow it to be used for mortgage payments.

We must greatly expand the Preserving Our Diversity (POD) program to be used by younger families who already reside in the city.

POD money should be allowed to be used for mortgage payments, as Section 8 housing vouchers are.

Especially, we should allow POD money to be used towards helping families buy affordable units in TORCA 2.0 converted buildings, where such tenants are present at the time of TORCA conversion.

POD regulations must be structured to be more flexible so as not to discourage income growth. Thus, should a family's income rise they will only lose access to POD funds at a graduated rate, so that it will not be a disincentive for recipients to seek increased employment income.

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<sup>14</sup> See Appendix C: Existing home purchase assistance programs

#### 4.3 Establish a “Home Purchase Assistance Office”.

The city shall create a “Home Purchase Assistance Office”

This office will encourage home ownership, (of both the affordable and lower-priced market rate types,) help buyers navigate the various purchase assistance programs, monitor ownership programs and seek new ways to help residents buy their homes.

There are many and varied assistance programs at the city, county, state and federal levels, with differing costs and benefits. These can be difficult and confusing to navigate. This office will provide example purchase models and will assist buyers towards possible solutions.

## 5 Recommendations

The housing commission recommends the city council urgently takes actions to establish and increase avenues for home-ownership in Santa Monica, as follows:

- 1) Establish a “TORCA 2.0” program that purchase rent-controlled buildings that are offered for sale, and will then allow renters to buy their apartments if they choose. And preserve affordability where it currently exists. We recommend the city council implement this program at a large scale, to capture most, if not all, rent-controlled apartments that are offered for sale.
- 2) New, market rate apartments are exempt from all rent control and transfer future wealth and capital appreciation from renters to landlords. The city must remove planning and fee biases against condo construction relative to market rate apartment construction. This will encourage lower-cost condo ownership in higher-density buildings along major boulevards (As an additional choice to the current, land-hungry, ‘townhouse’ model of condo construction.)
- 3) Place a ballot measure to impose a 30% gross rental tax on multi-family housing that receives its first occupancy permit after Jan 1<sup>st</sup>, 2025. This will not apply to any prior-existing rental housing. And it will never apply to any rent controlled or affordable housing, single-family housing or ADU’s, whether built before or after that date. This will discourage the construction of apartments in favor of condos. But it will apply to condos built after that date to ensure they become owner occupied, and not just rented-out-condos. For apartment buildings that are in construction before that deadline the city will work with developers to ease the transition of those units to condos for sale, waiving fees &etc. should the developer accede.
- 4) Wherever possible the city should encourage non-profit housing providers of 100% affordable rental buildings to transition their buildings to ownership models. If necessary, this may require buildings to migrate to new non-profits that will pursue ownership as a primary goal.<sup>15</sup>
- 5) Currently all 100% affordable housing developments are rentals. CA demands for affordable housing can be met by for-sale units. Until a significant portion of all 100% affordable housing projects are owner-occupied, the Housing Authority must require that all new such projects are affordable, for-sale condos. Furthermore, existing residents of affordable housing in the city must be given priority to buy such for-sale housing units.

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<sup>15</sup> To facilitate this going forward, the land on which new 100% affordable rental buildings are constructed must be bought and kept by the city, and then leased to non-profits for affordable rental UNLESS the housing allows ownership. The city will include requirements in contracts that evidence of ownership actually happens, else the terms of loans will be broken. Where ownership is not supported the city will keep control of the land and ground rents and lease-renewals will allow the city to maintain ultimate control of affordable rental housing that it has helped to finance, and then migrate that housing towards ownership when possible.



- 6) Establish generous city programs using housing trust funds to provide interest free or forgivable down-payment assistance to city residents who wish to purchase affordable housing.<sup>16</sup>
- 7) Establish a “Home Purchase Assistance Office” that will encourage home ownership, help navigate the various purchase assistance programs, monitor ownership programs and seek new ways to help residents buy their homes.
- 8) Initiate a program that requires non-profits to develop buildings that operate a “rent-to-own” model. In this model as units are bought by renters, they then run HOAs for the buildings. When they are sold back, the units are bought back by the non-profits to again be offered on a “rent-to-own” system, where rents contribute to down payments.
- 9) We must expand the Preserving Our Diversity (POD) program to younger families. Especially those renting apartments at the time those buildings convert via TORCA 2.0 Also, POD money should be permitted to be used for mortgage payments, as Section 8 housing vouchers are.
- 10) POD regulations must be structured to be more flexible so as not to discourage income growth. Thus, should a family’s income rise they will only lose access to POD funds at a graduated rate, so that it will not be a disincentive for recipients to seek increased employment income.
- 11) Allow existing market rate apartment buildings that are exempt from rent control to convert to condos, with protections for existing tenants.

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<sup>16</sup> As currently happens for city loans to non-profits that are forgiven over time, and are often forgiven earlier than contractually obligated.

## 6 Conclusion

Some may argue that affordable home ownership is unfair in some way. First, we must ask, are those offering that argument property owners? In which case they appear to support ownership for themselves, but not for others.

However, it is preventing the lower income from owning that is unfair. We live in a country where the majority own their homes. Unless homeownership is banned nationwide (which will never happen), then by stopping the lower income from owning we are condemning them to multi-generational poverty, as those in other, more affordable, cities throughout the country own their homes and appreciate capital that can pay for retirements, and can be passed down.

And if property ownership were banned, who then would be the landlords? Even non-profit landlords harbor opaque self-interest, and over time may lose sight of their original vision. And municipal attempts at property management are guaranteed to fail, due to political meddling, regulatory overload and insensitivity to efficiency.

It has also been suggested that there will be attempts to evade income-deed-restrictions on purchases, but prior cases have been few. And past abuses have been enabled by our city's lax attitudes, not flaws in the system itself. If Santa Monica gets a reputation for firmly enforcing the rules, then efforts to skirt them will be rare. Monitoring deed restrictions is not a passive activity for the city, but like managing affordable rentals, it will require a hands-on approach.

Racial, social, economic and historical injustices are guaranteed to continue unless the lower income and displaced are allowed to own their own homes. In our current housing models, the lower income will rent forever while the wealthy will own and get ever richer. That is exactly the situation we find in Santa Monica today.

Home ownership brings very real benefits to occupants: financial equality, stability, freedom from eviction, pride, the ability to pass a home to children, the creation of multigenerational wealth, financial education and community.

Only landowners become wealthy. And large landlords, whether non-profit or for-profit, are spreading their buildings and influence ever wider throughout our city, as they have the legal and financial ability to work the system better than others.

Some may argue that affordable ownership where the city retains ownership of the land will help affordability. But in the long term it is only land that appreciates –the buildings on that land depreciate.

If you remove the prospect of capital appreciation, of which land-ownership is the only essential factor, then renters would, correctly, laugh at the prospect of home ownership – else what is the point of risking down-payments and dealing with HOAs and leaky plumbing? The

key reason for dealing with all that is capital appreciation. And it is that very appreciation that is the reason why the wealthy are wealthy, and the lack of which keeps the lower income struggling.

Capital appreciation for the lower income and working class IS the whole point. And without owning the underlying land, long-term capital appreciation is impossible.

## Appendix A: 99-year leasehold versus freehold ownership.

The classic California condo grants the ownership of apartments, and shared ownership of the underling land. However, 99-year leases do not.

The key with 99-year leases is that the occupants don't 'own' anything. It is not ownership – it is long term renting.

Often consumers react to what's in right in front of them. A grander, shinier lease-hold property will be more tempting than a smaller condo that comes with land – even though the condo is a vastly superior source of long-term wealth. The sellers of the leasehold property are counting on the lack of consumers' sophistication to sell something that, if they were aware of what truly was happening, the buyers would never fall for.

There is not a significant price difference between buying a 99 year lease and buying and owning an condo – especially when factoring in the land-rent.

A 99 year lease has no long-term inter-generational wealth building. A 100% owned condo does.

After 50 years, and especially after 70 years a leasehold property rapidly becomes worthless, and the money spent buying it vanishes. As retirement looms for many, the value in a leasehold apartment to pay for that retirement diminishes, at just the moment it is needed most. A large share of the population will have very little saved for retirement, and freehold properties are essential means of long-term saving to pay for that. Leasehold properties are almost useless for this purpose.

Leasehold apartments are slightly cheaper to 'buy', but the long-term loss of value far outweighs the purchase cost savings.

So what is the point of 99 year leases? It is because of an unwillingness of cities to trust their residents with ownership. Politicians and bureaucracies want to hang onto land – keep control of it – which gets to the very root of the urge to control and keep power over others.

100% ownership gives residents absolute power over their futures, rather than still being under the control of the city.

Time and again it is claimed that the land is too expensive and makes ownership unattainable. This is a repeated untruth that somehow becomes a fact because of that repetition, when it is still not true.

All over the world people own their own condos in locations which have just as expensive land costs than Santa Monica.

Consider a 99-year lease apartment and a condo. For the same price the condo will be a bit smaller and less luxurious. (And thus appear a more attractive value to unsophisticated buyers.)

At 50 years the value of the lease will be degrading fast, and by 70 years it will be un-mortgageable, and almost worthless.

At 70 years the condo will have appreciated, and can create multi-generational wealth.

These are the key tests for the true worth and effectiveness of housing:

- 1) Does it create multigenerational wealth.
- 2) Does it remove all outside control over the housing.

The 99-year lease fails both tests. It is not owning. It is long term renting – at a high initial price – that masquerades as ownership. It is a trick to move money from the unsophisticated to the wealthy. The landowners of London and the landowners of Palm Springs know how to keep their wealth – by selling 99 year leases.

In summary, 99-year leases are a prime example of the wealthy defrauding the lower income, and of non-profits losing sight of their original mission.

If the land had been owned by the condo owners, then they would not have had this looming crisis.

There are two types of landowners for 99-year leases: For-profit and non-profit. But they both suffer from the key flaw – it is not real ownership.

#### A.1 99-year leases with for-profit landowners

For-profit landowners are exemplified by leasehold properties in Palm Springs and London. New leases on these properties are not meaningfully cheaper than equivalent freehold properties. And the for-profits will engage in hardball negotiation when leases expire.

UK experience:

The treatment of leaseholders by landowners in the UK has frequently been scandalous. As a consequence, the British government has banned the sale of new housing as leasehold property.<sup>17</sup>

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<sup>17</sup> <https://www.which.co.uk/money/mortgages-and-property/first-time-buyers/buying-a-home/leasehold-vs-freehold-aTWQZ3I6Fgji>

You may ask why we so critical of long leases... it is from our personal experiences in London, and from hearing about the difficulties of leaseholders in Palm Springs who fall for the supposed better deal of leasing, but have the difficulties of dealing with a landowner, and end up with nothing at the end of the lease.

#### A.2 99-year leases with non-profit landowners

There is no guarantee that in 99 years the non-profit will not have sold the land to another non-profit which has different values, or they will allow the leaseholders to renew leases. In fact, it is extremely likely that 99 years into the future the non-profit will decide it wants to do something else with the land.

99 years is long enough to seem like forever, but it is not 99 years, it is 70 years, or perhaps even 50 years before the resale value of the leases collapse. But it is long enough for non-profit land-owners to forget their original mission, and be swayed by the soaring value of the property as the leases approach expiry.

## Appendix B: Examples of existing affordable home ownership projects.

Examples of existing affordable homeownership projects are discussed, summarizing their benefits and drawbacks.

### B.1 University Glen – Channel Islands

See here:

<http://universityglen.csuci.edu>

This development may provide supposed affordability, but it fails for the following reasons:

- 1) A 99-year lease with perhaps limited ability to renew, as per all such arrangements will cause a dramatic drop in resale value after 50 years, and will become near worthless after 70 years.
- 2) Limits sale price increase to no more than the Consumer Price Index (CPI), which may well be less than the fair market value. This further, severely limits capital appreciation, compared with free-market housing.
- 3) The landowner has first right of refusal on resales, which it will invariably do, and then resell at market price, pocketing the difference.

In conclusion: Like all 99-year leasehold properties, it has been designed to keep any long-term wealth created under the control of the landowner, whether a for-profit, or non-profit organization.

### B.2 New York Housing Development Fund Corporation (H.D.F.C.) coops

See here:

<https://www.nytimes.com/interactive/2022/11/17/realestate/nyc-harlem-west-side-apartment.html>

<https://www.nyc.gov/site/hpd/services-and-information/hdfc.page>

<https://streeteasy.com/blog/what-is-an-hdfc-co-op/#h-what-is-an-hdfc-co-op>

There are many positive aspects to this system:

- 1) There is no ground lease. The owners share permanent ownership of the land.
- 2) The novel use of flip taxes for maintenance costs, which discourages flipping and encourages long term ownership.
- 3) The light-touch limits on resale prices.

- 4) The controls placed on income and cost-multipliers limits offer a master class in preventing trust-funders from engaging in pied-a-terre exploitation.

There are issues in using this exact model in Santa Monica regarding the use of New York style coops, which are roughly equivalent to the “tenant-in-common” ownership model used here.

However, HFDC coops have been operating successfully for many years, and many of the issues have been worked out. And they provide a promising example of converting older apartment buildings in Santa Monica to affordable home-ownership – and may help guide way forward for TORCA 2.0.



## Appendix C: Existing home purchase assistance programs

This is a non-exhaustive list of existing programs and announcements of upcoming programs. It is clear from the complexity, potential for overlap and possibly the need for the city to be involved in setup and engagement with these programs, that the creation of a “Home Purchase Assistance Office” would be vital help to affordable home buyers.

- **Housing Choice Voucher Homeownership program:** The Housing Choice Voucher (HCV) homeownership program allows families that are assisted under the HCV program to use their voucher to buy a home and receive monthly assistance in meeting homeownership expenses.  
[https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/hcv/homeownership](https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/homeownership)
- **HUD's Family Self Sufficiency (FSS):** The FSS program provides a way for Housing Choice Voucher holders to earn escrow money to use towards homeownership or whatever they deem it to be used for. This program is usually administered by individual Housing Authorities, but other non-profits may also administer this program in conjunction with the Housing Authority, such as the St. Joseph's Center did for Santa Monica, and still does for Culver City. SMHA ended this program in 2018 citing in the Annual Administrative Plan that there were not enough voucher holders who wanted to participate in the FSS program because most of them are elderly and disabled:  
[https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/hcv/fss](https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/fss)
- **Housing and Community Development (HCD) state and federal funding for affordable homeownership:**  
<https://www.hcd.ca.gov/grants-and-funding/programs-active/homeownership-super-nofa>
- **HUD's announcement of NOFA for state and local governments to create affordable homeownership programs:**  
[https://www.hud.gov/press/press\\_releases\\_media\\_advisories/hud\\_no\\_22\\_165](https://www.hud.gov/press/press_releases_media_advisories/hud_no_22_165)
- **HUD's plans to build pathways for lower-income households to build upward mobility through incentive programs and pathways to affordable homeownership:** HUD RELEASES ECONOMIC JUSTICE AGENDA TO HELP LOW-INCOME RENTERS BUILD ASSETS Bridging the Wealth Gap expands HUD's work to help renters achieve financial well-being and homeownership through saving, credit building, and banking HUD also announces \$113 million to help HUD-assisted families  
[https://www.hud.gov/press/press\\_releases\\_media\\_advisories/HUD\\_No\\_22\\_142](https://www.hud.gov/press/press_releases_media_advisories/HUD_No_22_142)
- **The Forgivable Equity Builder Loan program of the California Housing Finance Agency:** provides 10% of the purchase price towards a down payment.

<https://www.calhfa.ca.gov/homebuyer/programs/forgivable.htm>

- **LA County Development:** agency offers up to \$85,000 second mortgages for down-payment assistance that has 0% interest and deferred payments  
<https://www.lacda.org/home-ownership/home-ownership-program#:~:text=The%20Home%20Ownership%20Program%20>
- **The city of Santa Monica:** itself has, or had, an existing equity sharing program that allow affordable purchasers to share the cost with the city. The current status of this program is unclear.
- **The California Housing Finance agency MyHome program:** offers a deferred-payment junior loan of an amount up to the lesser of 3.5% of the purchase price or appraised value to assist with down payment and/or closing costs.  
<https://www.calhfa.ca.gov/homebuyer/programs/myhome.htm>
- **The Golden State Finance Authority:** provides up to 5.5% towards downpayment and closing costs.  
<http://www.gsfahome.org/programs/platinum/overview.shtml>
- **Neighborhood housing services of Los Angeles:** Provides eligible homebuyers with \$25,000 in down payment assistance on qualified properties <https://nhslacounty.org/lift/>